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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/711,710	09/30/2004	Robert Africa	35693830018US1	5709
26582	7590	05/14/2007		
HOLLAND & HART, LLP P.O BOX 8749 DENVER, CO 80201			EXAMINER HOEY, ALISSA L	
			ART UNIT 3765	PAPER NUMBER
			MAIL DATE 05/14/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

ED

Office Action Summary	Application No. 10/711,710	Applicant(s) AFRICA ET AL.	
	Examiner Alissa L. Hoey	Art Unit 3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13-19,50 and 55-57 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13-19,50 and 55-57 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>11/12/04 11/14/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Claims 1-12, 20-49, 51 and 54 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected embodiments, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 04/17/07.

Response to Amendment

2. Amendment of 04/17/07 has been entered, canceling claims 1-12, 30-49 and 51-54, claims 55-57 were newly added and claim 13 was amended. Claims 13-19, 50 and 55-57 are examined below.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 13-15, 17-19, 50 and 55-57 are rejected under 35 U.S.C. 102(b) as being anticipated by Forsyth et al. (US 6,565,702).

In regard to claim 13, Forsyth et al. teaches a chamois comprising a first cloth layer (35), the first cloth layer (35) being relatively elastic and having a garment facing side (figure 17: column 2, lines 57-61). A second cloth layer (41, 79, 80), the second cloth layer being relatively elastic (41) and having at least one relatively inelastic portion (79, 80). The second cloth layer (41, 79, 80) having a body facing side (figure 17). A first

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foam layer (end portion of 36), the first foam layer (36) coupled to the first cloth layer (35) and located between the first cloth layer (35) and the second cloth layer (41). The first foam layer (36) being relatively elastic such that the chamois stretches (column 6, lines 54-61). At least one foam pad (39, 40) being coupled to the first foam layer (36) between the first foam layer (36) and the second cloth layer (41). The at least one foam pad (39, 40) substantially aligned with the at least one relatively inelastic portion (79, 80), such that the at least one foam pad is inherently inhibited from stretching (figure 17).

In regard to claim 14, Forsyth et al. teaches the at least one foam pad (39, 40) being relatively inelastic (column 6, lines 32-39 and column 3, lines 19-38).

In regard to claim 15, Forsyth et al. teaches the at least one foam pad (39, 40) being relatively elastic (column 6, lines 32-39 and column 3, lines 19-38).

In regard to claim 17, Forsyth et al. teaches the first cloth layer (35) comprising a relatively inelastic portion substantially aligned with the at least one foam pad (construction of foam pad with first cloth layer would produce a relatively inelastic portion of first cloth layer).

In regard to claim 18, Forsyth et al. teaches the at least one foam pad (39, 40) being relatively denser than the elastic foam layer (column 6, lines 24-61).

In regard to claim 19, Forsyth et al. teaches the at least one foam pad comprises multiple densities at least one of which is denser than the elastic foam layer (see pads 39, 40 and column 6, lines 24-61).

In regard to claim 50, Forsyth et al. teaches the chamois being flexible (column 2, lines 1-5).

In regard to claim 55, Forsyth et al. teaches a second foam layer (middle portion of 36) coupled to the second cloth layer (41) and located between the at least one foam pad (39, 40) and the second cloth layer (41). The second foam layer (36) being relatively elastic such that the chamois stretches (column 6, lines 54-61).

In regard to claim 56, Forsyth et al. teaches the first foam layer (36: end segment) and the second foam layer (36: middle segment) comprising the same type of foam (column 6, lines 54-61).

In regard to claim 57, Forsyth et al. teaches the first foam layer (36) coupled to the second cloth layer (41).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Forsyth et al. in view of Garneau (US 2005/0210570).

Forsyth et al. teaches a chamois as detailed above. However, Forsyth fails to teach the second cloth layer containing an anti-microbial material.

Garneau teaches a chamois having a second cloth layer to be contact with the user's skin containing an anti-microbial material (paragraph 0047).

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It would have been obvious to have provided the chamois of Forsyth et al. with the second cloth layer containing anti-microbial material, since the chamois of Forsyth et al. provided with the second cloth layer containing anti-microbial material would provide a chamois that not only protects the user's skin and body from a bike seat, but also provides protection against the formation of bacteria.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure and can be found cited in PTO-892 form submitted herewith.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alissa L. Hoey whose telephone number is (571) 272-4985. The examiner can normally be reached on M-F (8:00-5:30) Second Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Welch can be reached on (571) 272-4996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ALH


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PRIMARY EXAMINER
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